



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,919	11/15/2001	Seung-Tack Hyon	678-0674	5088
66547 7590 11/10/2009 THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER				
NGUYEN, KHAI MINH				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
11/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/002,919

**Applicant(s)**

HYON, SEUNG-TAEK

**Examiner**

KHAI M. NGUYEN

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-17 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17 and 19-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 6/3/2009, PROSECUTION IS HEREBY REOPENED. The new ground(s) of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617

***Response to Arguments***

2. Applicant's arguments with respect to claims 10-17, and 19-29 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claims 10, 16, and 22, Applicant argues in the remarks on pages 5-12.

Schutze clearly discloses creating by the user (col.4, lines 27-38 (moving pictures)), a plurality of emoticons within a range of a transmittable SMS (Short

Message Service) message formed by utilizing a plurality of typical characters (symbols) and special characters in combination (col.1, lines 11-20, col.4, lines 27-38 (moving pictures)).

Schutze clearly discloses storing the at least one emoticon in an emoticon group selected by a user among a plurality of emoticon groups (col.2, lines 49-62 (storing the symbols table and the associated speed expressions)) comprised of previously grouped emoticons according to a specific reference (fig.30-35: item 16).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10-17 and 19-29 are rejected under 35 U.S.C.103(a) as being unpatentable over Skelly (U.S.Pat-6064383) in view of Schutze et al. (U.S.Pat-7272419).

Regarding claim 10, Skelly teaches an emoticon input method in a mobile terminal (fig.2, col.2, lines 35-45), comprising the steps of:

grouping said plurality of emoticons (col.1, lines 43-58) and...

entering an emoticon input mode (col.1, lines 43-65);

displaying a list of the stored emoticon groups (fig.2, and 3a, abstract, col.4, lines 27-48);

selecting an emoticon group (col.1, and lines 43-58, col.2, lines 35-45);

displaying the emoticons of the emoticon group selected by a user (fig.2, and 3a, abstract, col.4, lines 27-48) ; and

Skelly fails to specifically disclose creating by the user, a plurality of emoticons within a range of a transmittable SMS (Short Message Service) message formed by utilizing a plurality of typical characters and special characters in combination;...storing the emoticons by groups in the mobile terminal; and storing an emoticon selected by the user with an SMS message.

However, Schutze teaches creating by the user (col.4, lines 27-38 (moving pictures)), a plurality of emoticons within a range of a transmittable SMS (Short Message Service) message formed by utilizing a plurality of typical characters (symbols) and special characters in combination (col.1, lines 11-20, col.4, lines 27-38 (moving pictures));...storing the emoticons by groups in the mobile terminal (col.2, lines 49-62 (storing the symbols table and the associated speed expressions)); and storing an emoticon selected by the user with an SMS message (fig.37-40: item 16, col.12, lines 7-19, and lines 31-34).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Schutze to Skelly to provide method for transmitting emoticons with SMS (user to easily to use).

Regarding claim 11, Skelly and Schutze further teach the emoticon input method of claim 10, wherein the emoticons are stored by a manufacturer in the process of manufacturing (see Skelly, fig.2, and 3a-3b, storage 22, col.4, line 27 to col.5, line 11).

Regarding claim 12, Skelly and Schutze further teach the emoticon input method of claim 10,

Schutze further teaches the emoticons are created and stored directly by the user (col.2, lines 49-62, and col.4, lines 27-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Schutze to Skelly to provide method for transmitting emoticons with SMS (user to easily to use).

Regarding claim 13, Skelly and Schutze further teach the emoticon input method of claim 10, wherein the emoticons are received from a base station (see Skelly, fig.2: server 36) and stored in the mobile terminal (see Skelly, fig.2, col.4, lines 7-17 (item 22 to hold of an copy a comic generating system 26)).

Regarding claims 14, 19-20, and 26-27 are rejected same reasons of the set forth in claim 13.

Regarding claim 15, Skelly and Schutze further teach the emoticon input method of claim 10,

Schutze further teaches the step of changing and editing the emoticons by the user (col.2, lines 49-62, and col.4, lines 27-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Schutze to Skelly to provide method for transmitting emoticons with SMS (user to easily to use).

Regarding claim 16, Skelly teaches an emoticon input method in a mobile terminal (fig.2, col.2, lines 35-45), comprising the steps of:

displaying the a list of the plurality of emoticon groups in an emoticon input mode (fig.2, and 3a, abstract, col.4, lines 27-48);

displaying emoticons included in an emoticon group selected by a user among the plurality of emoticon groups (fig.2, and 3a, abstract, col.4, lines 27-48);

selecting by a user (col.1, and lines 43-58, col.2, lines 35-45), at least one emoticon from the displayed emoticons;

Skelly fails to specifically disclose creating, by a user, at least one emoticon within a range of a transmittable SMS (Short Message Service) message, which is formed by utilizing a plurality of typical characters and special characters in combination; storing the at least one emoticon in an emoticon group selected by a user

among a plurality of emoticon groups comprised of previously grouped emoticons according to a specific reference; and transmitting an SMS message including the at least one emoticon selected by a user.

However, Schutze teaches creating, by a user (col.4, lines 27-38 (moving pictures)), at least one emoticon within a range of a transmittable SMS (Short Message Service) message, which is formed by utilizing a plurality of typical characters and special characters in combination (col.1, lines 11-20, col.4, lines 27-38 (moving pictures), and col.11, lines 57-62); storing the at least one emoticon in an emoticon group selected by a user among a plurality of emoticon groups (col.2, lines 49-62 (storing the symbols table and the associated speed expressions)) comprised of previously grouped emoticons according to a specific reference (fig.30-35: item 16); and transmitting an SMS message including the at least one emoticon selected by a user (col.10, line 59 to col.11, line 23, and col.11, lines 57-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Schutze to Skelly to provide method for transmitting emoticons with SMS (user to easily to use).

Regarding claim 17 is rejected same reasons of the set forth in claim 11.

Regarding claim 21 is rejected same reasons of the set forth in claim 15.

Regarding claim 22, Skelly teaches an emoticon input method in a mobile terminal (fig.2, col.2, lines 35-45), comprising the steps of:



entering an emoticon input mode (col.1, lines 43-65);

displaying emoticons included in an emoticon group selected by a user among the plurality of emoticon groups (fig.2, and 4, abstract, col.4, lines 27-48);

selecting by a user an emoticon from the display emoticons (col.1, and lines 43-58, col.2, lines 35-45); and

Skelly fails to specifically disclose displaying a list of a plurality of emoticons groups comprised of previously grouped emoticons within a range of a transmittable SMS (Short Message Service) message according to a specific reference in emoticon input mode, wherein the emoticons are created by utilizing a plurality of typical characters and special characters in combination, and stored in the mobile terminal; and storing within an SMS message the emoticon which is selected by the user

However, Schutze teaches displaying a list of a plurality of emoticons groups (fig.38: item 26, col.14, lines 1-29) comprised of previously grouped emoticons within a range of a transmittable SMS (Short Message Service) message according to a specific reference in emoticon input mode (col.1, lines 11-20, col.4, lines 27-38 (moving pictures), and col.11, lines 57-62), wherein the emoticons are created by utilizing a plurality of typical characters and special characters in combination (col.1, lines 11-20, col.4, lines 27-38 (moving pictures), and col.11, lines 57-62), and stored in the mobile terminal (col.2, lines 49-62 (storing the symbols table and the associated speed expressions)); and storing within an SMS message the emoticon which is selected by the user (fig.37-40: item 16, col.12, lines 7-19, and lines 31-34).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Schutze to Skelly to provide method for transmitting emoticons with SMS (user to easily to use).

Regarding claim 23, Skelly and Schutze further teach the emoticon input method of claim 22, wherein the list of emoticons and the emoticons are stored in the form of a bit map (see Skelly, fig.2, and 3a-3b, storage 22, col.4, line 27 to col.5, line 11).

Regarding claim 24, Skelly and Schutze further teach the emoticon input method of claim 22, further comprising the step of transmitting the SMS message including the stored emoticon (see Schutze, ol.10, line 59 to col.11, line 23, and col.11, lines 57-62).

Regarding claim 25 is rejected same reasons of the set forth in claim 12.

Regarding claim 28 is rejected same reasons of the set forth in claim 15.

Regarding claim 29, Skelly and Schutze further teach the emoticon input method of claim 16,

Schutze further teaches the emoticon groups include upper groups and lower groups (fig. 28-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Schutze to Skelly to provide method for transmitting emoticons with SMS (user to easily to use).

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI M. NGUYEN whose telephone number is (571)272-7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on 571.272.7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617

/Khai M Nguyen/  
Examiner, Art Unit 2617

11/5/2009